

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600**

WORKSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, February 28, 2007, 9:30 a.m.

ACTION ITEMS:

1. **Minutes**, February 7 and 21, 2007 Worksessions.

Action: Approved, (CLH/DLB, 5-0).

2. **A-6114, Appeal of Newland Communities LLC and NNP II – Clarksburg LLC** (Department of Fire and Rescue Services – Notices of Violation). Status report from Todd Brown, Esquire.

Action: (1) Re-opened the record to include the status report from Mr. Brown; DLB/CLH, 5-0); (2) Mr. Brown to provide a status/progress report to the Board at its 5/2/07 Worksession.

3. **A-6165, Petition of Steven C. Salop** (accessory structure/detached garage). Letter to the Board from Rebecca Willens, Esquire, withdrawing the petition and requesting a refund of the filing fee.

Action: (1) Dismissed the petition as withdrawn; (2) granted 50% (\$200.00) refund of the filing fee, (WMH/CGT, 5-0).

4. **A-6189, Appeal of Catherine A. Cotter** (Historic Preservation Commission – Public Decision Granting Application No. 35/13-06DD). Letters to the Board from Andrew Strongin, Esquire, with a Motion To Compel Discovery, a request to intervene on the behalf of John J. Finneran, Jr., a part-owner with the appellant, and a Motion to Stay Appeal During Pendency of Judicial Review. Also included is a letter from Todd Brown, Esquire, in Opposition to the Motion to Compel Discovery.

Action: (1) Granted the request to intervene, (CLH/CGT, 5-0); (2) denied the Motion to Stay Appeal During Pendency of Judicial Review, (CGT/AIF, 5-0); (3) denied the Motion to Compel Discovery, (DLB/CLH, 5-0); (4) Board requested the County Attorney to provide items 1-5, 6, 7 and 8-14 to Mr. Strongin that were identified in the Motion to Compel Discovery that are relevant to HPC Application No. 35/1306DD.

5. **A-6192, Appeal of Brooke Venture LLC by Robert B. Gould** (Department of Permitting Services – Issuance of Sign Permit No. 436126). Letter to the Board from Stanley Abrams, Esquire, requesting to intervene on behalf of the property owner, Voccelli's Pizza.

Action: Granted the request to intervene, (WMH/DLB, 5-0).

6. **CBA-1174-D, Petition of Holton Arms School** (private educational institution). Letter from Elsie Reid, Esquire, notifying the Board of the School's pending construction permits.

Action: (1) Re-opened the record to include Ms. Reid's letter; (2) granted the administrative modification for the revision to the emergency access drive, (DLB/CGT, 5-0); (3) the Board to receive a revised site plan within 45 days showing the emergency access drive.

7. **S-570, Petition of Wildlife Achievement Club Chapter of Izaak Walton League of America, Inc.** (rifle, pistol, skeet shooting range). Letter from Richard Fried, President, submitting the Club's annual report.

Action: Re-opened the record to include Mr. Fried's letter with attachments, (CLH/WMH, 5-0).

8. **S-597-A, Petition of H. Steven Steinberg, VMD and Kenneth R. Cowell, DVM** (veterinary hospital). Letter to the Board from Stuart Barr, Esquire, with an update of the conditions of approval of the special exception modification in the Board's Opinion dated 5/3/06.

Action: (1) Re-opened the record to include Mr. Barr's letter; (2) granted the administrative modification as shown on Revised Exhibit No. 34(b), (CLH/CGT, 5-0).

9. **S-914-C, Petition of Tournament Players Club at Avenel, Inc.** (private golf club. Letter to the Board from Stephen Kaufman, Esquire, and Joseph Lapan, Esquire, submitting corrected replacement exhibits. (Large corrected replacement exhibits: existing course layout, property layout, stream/floodplain restoration plan, forest conservation plan, temporary construction access and staging areas).

Action: Re-opened the record to include Mr. Kaufman and Mr. Lapan's letter with attachments, (CLH/WMH, 5-0).

10. **S-1233, Petition of John E. Serio** (horticultural nursery and commercial greenhouse). Memorandum from Barbara Piczak, Inspector, Department of Permitting Services (DPS), notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the property owner.

Action: Revoked the special exception as abandoned, (CGT/DLB, 5-0).

11. **S-1289, Petition of HCR Manor Care** (nursing home). Letter to the Board from Mark Viani, Esquire, requesting an administrative modification. (Large exhibits: site development plan, landscape plan, elevations and floor plan, zoning vicinity map).

Action: Granted the administrative modification, (CLH/WMH, 5-0).

12. **S-1969, Petition of Mount Point LLC** (private riding stable). Memorandum to the Board from Heather Gottke, Inspector, DPS, notifying the Board that the special exception is a permitted use and requesting that it be revoked. Also included is a request for revocation from the property owner.

Action: Revoked the special exception as permitted and for lack of jurisdiction, (CGT/WMH, 5-0).

13. **S-2121, Petition of Fletcher's Amoco, Inc. and Amoco Oil Company** (automobile filling station). Letter to the Board from Stuart Barr, Esquire, requesting a transfer of the special exception.

Action: Granted the transfer of the special exception, (DLB/CLH, 5-0).

14. **S-2423 [S-2423-A], Petition of Meadow Ridge Seniors' Villas, LLC** (elderly or handicapped housing). Pending Item. Memorandum from Carlton Gilbert, Development Review Division, M-NCPPC.

Action: (1) Denied the administrative modification request, public hearing required, (DLB/CGT, 5-0); (2) Board requested additional information from Mr. Gilbert regarding the statutory basis of the technical staff's recommendation.

15. **S-2682, Petition of Linda F. Baker and Michael Repolgle** (accessory apartment). Letter from the petitioners submitting a revised lighting plan as required by the Board's Opinion dated 2/2/07.

Action: (1) Re-opened the record to include the petitioners' letter with attachment; (2) granted the administrative modification showing the revised lighting, (CGT/CLH, 5-0).

16. **S-2689, Petition of Community Ministry of Montgomery County** (service organization). Memorandum from Françoise Carrier, Director, Office of Zoning and Administrative Hearings, notifying the Board that the special exception has been withdrawn. Also included is letter of confirmation from Rebecca Willens, Esquire.

Action: (1) Dismissed the petition as withdrawn with prejudice; (2) granted 50% (\$125.00) of the filing fee, (CGT/CLH, 5-0).

DECISION ITEMS:

17. **S-2681, Petition of Alla Bahktina** (accessory apartment). Hearing Examiner's Report and Recommendation.

Action: (1) Adopted the Hearing Examiner's Report and Recommendation; (2) granted the special exception with conditions, (CLH/WMH, 5-0).

PENDING ITEMS:

18. **A-6114, Appeal of Newland Communities LLC and NNP II – Clarksburg LLC** (Department of Fire and Rescue Services – Notice of Violation dated September 20, 2005). Second Status Report from Todd Brown, Esquire. (1) Re-opened the record to include the Second Status Report from Todd Brown; (2) the Board will receive Status Reports on 1/15/07 and 4/1/07. [W/S 10/25/06].

19. **CBA-470-A, Petition of Kensington Nursery School** (private educational institution). Hearing Examiner's Report and Recommendation. Item deferred for the site plan required in Condition No. 3 of the Hearing Examiner's Report and Recommendation. [W/S 5-31-06].

PENDING ITEMS (continued):

20. **S-390, Petition of Twin Farms Club, Inc.** (community swimming pool). Letter to the Board from Teresa A. McKenna, President, requesting an administrative modification. (Large exhibit: site and grading plan). (1) Item deferred for receipt of a site plan with the existing conditions; (2) item referred to M-NCPPC Technical Staff for review of administrative modification request. [W/S 2/18/04].
21. **S-2328, Petition of Judith Himmelfarb** (accessory apartment). Letter to the Board from Ariel De notifying the Board that the special exception has been abandoned and requesting that it be revoked. Item deferred until confirmation that the accessory apartment's kitchen as been removed. [W/S 7/26/06].
22. **S-2423 [S-2423-A], Petition of Meadow Ridge Seniors' Villas, LLC** (elderly or handicapped housing). Letter to the Board from Randy Frey, President, and Robert H. Holman, Managing Member, requesting an administrative modification. [Large exhibits: landscaping and lighting plans]. (1) Deferred administrative modification request for 60 days; (2) administrative modification request reviewed by M-NCPPC Technical Staff. [W/S 12/7/05].
23. **S-2453, Petition of Academy Child Development** (child day care facility). Letter to the Board from Marilyn Fleetwood, President, requesting an administrative modification. Item deferred for additional information and what will be the impact of peak travel time. [W/S 5-31-06].
24. **S-2527, S-2528, S-2529, Petition of Twin Ponds Farm, LLC** (wholesale horticultural nursery, landscape contractor, manufacture of mulch and compost). Letter of complaint from Robert A. Thomassen, Diane M. Hogan, John and Stephanie Egly, and Sugarloaf Citizens Association by Jane Hunter with a request that the Board convene a revocation hearing. Also included are letters from Erica Leatham, Esquire, requesting that the Board defer this request until its next Worksession. (1) Re-opened the record to include letters dated 4/21/06, 5/1/06, 5/5/06, 5/9/06, (2) request inspection by the Department of Permitting Services (DPS) to determine where special exception stands in terms of its implementation. [W/S 5/10/06].

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